

4months, CLOSED

U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:07-cv-02644-JOF
Internal Use Only

08 CV 03508

Miller v. Holtzbrinck Publishers, LLC et al
Assigned to: Judge J. Owen Forrester
Cause: 28:1332 Diversity-Fraud

Date Filed: 10/24/2007
Date Terminated: 03/03/2008
Jury Demand: Plaintiff
Nature of Suit: 370 Fraud or
Truth-In-Lending
Jurisdiction: Diversity

Plaintiff

Dianne Miller

represented by **Charles Tyrone Brant**
Office of Charles T. Brant
170 Mitchell Street
Atlanta, GA 30303
404-522-5900
Email: cbrant@colomandbrantlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

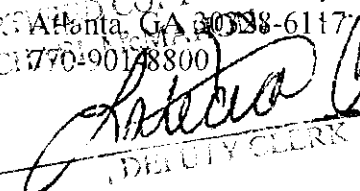
Holtzbrinck Publishers, LLC

represented by **Christopher Lee Meazell**
Dow Lohnes PLLC
Six Concourse Parkway
Suite 1800
Atlanta, GA 30328-6177
770-901-8898
Email: cmeazell@dlalaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

**ATTEST: A TRUE COPY
CERTIFIED THIS**

APR 08 2008

James N. Matter, Clerk
By: 
Deputy Clerk

Thomas MacIver Clyde
Dow Lohnes
Suite 1800
Six Concourse Parkway
Atlanta, GA 30328-6177
770-901-8800
BY 
CLERK
DEPUTY CLERK

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

MacMillan Publishers, Inc.

represented by **Christopher Lee Meazell**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas MacIver Clyde
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Saint Martin's Press

represented by **Christopher Lee Meazell**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas MacIver Clyde
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Heather Hunter

represented by **Christopher Lee Meazell**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas MacIver Clyde
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Michelle Valentine

represented by **Christopher Lee Meazell**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas MacIver Clyde
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/24/2007	<u>31</u>	COMPLAINT with Jury Demand, filed by Dianne Miller; and Summon(s) issued. Consent form to proceed before U.S. Magistrate and pretrial instructions provided. (Filing fee \$ 350.00 receipt number 570624.) (Attachments: # <u>1</u> Civil Cover Sheet)(epm) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 10/25/2007)
10/24/2007	<u>3</u>	(Court only) ***Set/Clear Flags (cpm) (Entered: 10/25/2007)
11/01/2007	<u>32</u>	Summons Issued as to Holtzbrinck Publishers, LLC, MacMillan Publishers, Inc., Saint Martin's Press, Heather Hunter, Michelle Valentine. (hfm) (Entered: 11/05/2007)
11/28/2007	<u>33</u>	Consent MOTION for Extension of Time to File Answer by Holtzbrinck Publishers, LLC, MacMillan Publishers, Inc., Saint Martin's Press, Heather Hunter, Michelle Valentine. (Attachments: # <u>1</u> Text of Proposed Order)(Clyde, Thomas) (Entered: 11/28/2007)
11/29/2007	<u>3</u>	MINUTE ORDER by CRD on 11/29/2007 granting <u>3</u> Motion for Extension of Time to Answer. Holtzbrinck Publishers, LLC's, MacMillan Publishers, Inc.'s, Saint Martin's Press's, Heather Hunter's, and Michelle Valentine's answers due 12/17/2007. Signed by Judge J. Owen Forrester on 11/29/07. (tcc) (Entered: 11/29/2007)
12/17/2007	<u>34</u>	MOTION to Dismiss for Improper Venue with Brief In Support by Holtzbrinck Publishers, LLC, MacMillan Publishers, Inc., Saint Martin's Press, Heather Hunter, Michelle Valentine. (Clyde, Thomas) Modified on 12/18/2007 to edit motion event to accurately reflect e-filed pleading (hfm). (Entered: 12/17/2007)
12/17/2007	<u>35</u>	AFFIDAVIT re <u>4</u> MOTION to Dismiss for Improper Venue by Heather Hunter. (Clyde, Thomas) Modified on 12/18/2007 to edit docket text to accurately reflect e-filed pleading (hfm). (Entered: 12/17/2007)
12/19/2007	<u>36</u>	NOTICE of Appearance by Christopher Lee Meazell on behalf of Holtzbrinck Publishers, LLC, MacMillan Publishers, Inc., Saint Martin's Press, Heather Hunter, Michelle Valentine (Meazell, Christopher) (Entered: 12/19/2007)
01/03/2008	<u>3</u>	Submission of <u>4</u> MOTION to Dismiss, submitted to District Judge J. Owen Forrester. (hfm) (Entered: 01/03/2008)
01/05/2008	<u>37</u>	MOTION for Extension of Time re: <u>4</u> MOTION to Dismiss <i>for Improper Venue</i> by Dianne Miller. (Attachments: # <u>1</u> Text of Proposed Order Order)(Brant, Charles) (Entered: 01/05/2008)
01/08/2008	<u>38</u>	RESPONSE in Support re <u>7</u> MOTION for Extension of Time re: <u>4</u> MOTION to Dismiss <i>for Improper Venue</i> filed by Holtzbrinck Publishers, LLC, MacMillan Publishers, Inc., Saint Martin's Press, Heather Hunter,

01/10/2008	<u>3</u>	MINUTE ORDER by CRD on 1/10/2008 granting <u>7</u> MOTION for Extension of Time until 1/22/08 to respond to <u>4</u> MOTION to Dismiss for Improper Venue by Dianne Miller. (tcc) (Entered: 01/10/2008)
01/22/2008	<u>9</u>	PROPOSED CONSENT ORDER Order Granting Transfer of Venue. (Brant, Charles) (Entered: 01/22/2008)
03/03/2008	<u>10</u>	ORDER approving <u>9</u> Proposed Consent Order Transferring action to the United States District Court for the Southern District of New York. Signed by Judge J. Owen Forrester on 3/3/08. (hfm) (Entered: 03/03/2008)
03/03/2008	<u>3</u>	Case transferred ELECTRONICALLY to District of Southern New York. (Entered: 03/03/2008)
03/03/2008	<u>3</u>	Civil Case Terminated. (hfm) (Entered: 03/03/2008)
03/03/2008	<u>11</u>	Clerk's Letter of Transfer to the USDC Southern District of New York. (hfm) (Entered: 03/03/2008)
04/08/2008	<u>3</u>	Case transferred manually to District of USDC SDNY. Original file, certified copy of transfer order and docket sheet sent. (hfm) (Entered: 04/08/2008)
04/08/2008	<u>12</u>	Clerk's Letter of Manual Transfer to USDC SDNY. (hfm) (Entered: 04/08/2008)

OCT 24 2007

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAMES N. HATTEN, CLERK
By: *[Signature]* Deputy Clerk

DIANNE MILLER,

PLAINTIFF

v.

1 07-CV-2644
CIVIL ACTION NO. _____

JOE

HOLTZBRINCK PUBLISHERS, LLC,
MACMILLAN PUBLISHERS, INC
SAINT MARTIN'S PRESS,
HEATHER HUNTER
AND MICHELLE VALENTINE

DEFENDANTS

COMPLAINT

1. This is an action at law to redress damages caused to the Plaintiff through tortuous interference with business advantage, plagiarism and other actionable practices and conduct by Defendants.

PARTIES, JURISDICTION, AND VENUE

2. The Plaintiff, Dianne Miller, is an adult resident citizen of Washington, D.C., whose address is 2950 Van Ness St. NW # 527, Washington, D.C.

3. Defendant, Holtzbrinck Publishers, LLC, (hereafter "Holtzbrinck"), at all times relevant hereto, is a limited liability company created and organized under the laws of the state of New York and whose address is 175 9th Avenue, New York, NY 10010 and is subject to service of process by and through its General Counsel.

4. Defendant, MacMillan Publishers, Inc, (hereafter "MacMillan"), at all times relevant hereto, is a corporation created and organized under the laws of the state

of New York and whose address is 175 9th Avenue, New York, NY 10010 and is subject to service of process by and through its General Counsel.

5. Defendant, Saint Martins Press, (hereafter "St. Martins"), at all times relevant hereto, is a limited liability company created and organized under the laws of the state of New York and whose address is 175 9th Avenue, New York, NY 10010 and is subject to service of process by and through its General Counsel.

6. Defendant, Heather Hunter (hereafter "Hunter"), at all times relevant hereto, is an adult citizen of the State of New York who resides at an address unknown to Plaintiff at this time.

7. Defendant, Michelle Valentine (hereafter "Valentine"), at all times relevant hereto, is an adult citizen of the State of New York who resides at an address unknown to Plaintiff at this time.

8. The Court has subject-matter jurisdiction of this case under 28 U.S.C. § 1332 (a).

9. Venue is proper in this Court because the acts delineated below all occurred either partially or in totality in Atlanta, GA. Furthermore the book, subject matter of this litigation, sold by the defendant is distributed on a national level and is sold and circulated in Atlanta, Georgia.

FACTS

10. The Plaintiff, Diane Miller, is an author who agreed to write a book in conjunction, with Defendant, Heather Hunter, for publication.

11. Sometime in April of 2005, Plaintiff Miller delivered a finished manuscript to Defendant Hunter and her agent.

12. On or about July 24, 2007, Defendants Holtzbrinck, MacMillan, and Saint Martin's released a book purportedly written by Defendant Hunter and Defendant Valentine.

13. The book released by Hunter and Valentine is the substantially the same work and product that Plaintiff wrote for Hunter.

14. Defendant Hunter intentionally misled Plaintiff into believing that she would be paid and acknowledged as the principal writer of the book in question.

15. The Defendant Valentine, intentionally took the manuscript written by Plaintiff, and held it out as her own work and has failed to acknowledge that the work is that of the Plaintiff or pay Plaintiff for same.

16. Defendant Holtzbrinck, MacMillan, and Saint Martins knew that the book purportedly written by Defendant Hunter and Valentine was not an original work and published the book without regard for the rights of the Plaintiff.

COUNT I

Intentional and Tortious Interference with Business Relationship

17. The allegations contained in paragraphs 1 through 16 above are incorporated herein as if set forth again in full.

18. The Defendants' acts delineated hereinabove were willful and intentional.

19. The Defendants' acts delineated hereinabove were done with the unlawful purpose of causing damage and loss to the Plaintiff's business.

20. The Defendants' acts delineated hereinabove were calculated to cause loss and damage to Plaintiff in its lawful business or undertakings.

21. Defendants' conduct constitutes tortuous interference and caused damage to Plaintiff Dianne Miller's business relations with those inside of the literary community by failing to give Plaintiff notoriety for the manuscript written.

COUNT II

Intentional Conversion of Plaintiff's Manuscript

22. The allegations contained in paragraphs 1 through 21 above are incorporated herein as if set forth again in full.

23. The intentional acts complained constitute unlawful conversion of an unpublished manuscript by Defendants Holtzbrinck, Macmillan, St. Martin's, and Valentine.

24. The Defendants conduct delineated above has caused Plaintiff to suffer a loss of personal property that was in her rightful possession at the time of the alleged incident.

COUNT III

Fraudulent Inducement and Misrepresentation

25. The allegations contained in paragraphs 1 through 24 above are incorporated herein as if set forth again in full.

26. The intentional acts complained of constitute both fraudulent inducement and intentional misrepresentation on the part of Defendant Hunter in inducing Plaintiff to write the manuscript with her Defendant Hunter in full knowledge that she never intended Plaintiff to receive her due credit.

27. The Defendant through her conduct delineated above caused Plaintiff to suffer from a loss of income.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

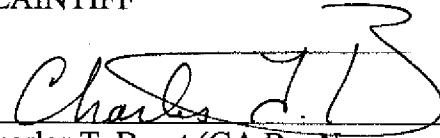
- (a) Trial by jury;
- (b) Judgment for Plaintiff and against the Defendants;
- (c) An award of damages in the amount of one million dollars (\$1,000,000) which will fully and fairly compensate Plaintiff for lost revenues and compensatory damages caused by Defendants' actions;
- (d) Reasonable attorney's fees, costs and expenses;
- (e) Punitive damages of two million dollars (\$2,000,000) to deter like conduct in the future by these Defendants and other similarly situated persons and entities;
- (f) Such other and further relief as may be deemed just and proper in the premises.

JURY TRIAL DEMAND

Plaintiff demands a trial by struck jury of all issues in this cause.

Respectfully submitted, this the _____ day of _____, 2007.

DIANNE MILLER.
PLAINTIFF



Charles T. Brant (GA Bar No
Colom and Brant Law Firm
170 Mitchell Street SW
Atlanta, GA 30303
Attorney for Plaintiff

**PLAINTIFF REQUEST SERVICE OF PROCESS ON DEFENDANTS BY
CERTIFIED RETURN RECIEPT REQUESTED.**

JS44 (Rev. 5/05 NDGA)

CIVIL COVER SHEET

1 07 - CV - 2644

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

DIANNE MILLER

DEFENDANT(S)

HOLTZBRINCK PUBLISHERS, LLC, MACMILLAN PUBLISHERS, INC, SAINT MARTIN'S PRESS, MICHELLE VALENTINE, AND HEATHER HUNTER

JOF

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF DISTRICT OF COLUMBIA
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT NEW YORK
(IN U.S. PLTF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

II. ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

CHARLES T. BRANT
170 MITCHELL STREET, SW
ATLANTA, GA 30303

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. GOVERNMENT PLAINTIFF ☐ 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
☐ 2 U.S. GOVERNMENT DEFENDANT ☒ 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (FOR DIVERSITY CASES ONLY)

- | PLF | DEF | PLF | DEF |
|---------------------------------------|--|----------------------------|---|
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 CITIZEN OF THIS STATE | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE |
| <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 CITIZEN OF ANOTHER STATE | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 CITIZEN OR SUBJECT OF A FOREIGN COUNTRY | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 FOREIGN NATION |

IV. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 ORIGINAL PROCEEDING ☐ 2 REMOVED FROM STATE COURT ☐ 3 REMOVED FROM APPELLATE COURT ☐ 4 REINSTATED OR REOPENED ☐ 5 TRANSFERRED FROM ANOTHER DISTRICT (SPECIFY DISTRICT) ☐ 6 MULTIDISTRICT LITIGATION ☐ 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT

V. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

INTENTIONAL AND TORTIOUS INTERFERENCE WITH BUSINESS RELATIONSHIPS, UNLAWFUL CONVERSION, AND
(IF COMPLEX, CHECK REASON BELOW)

- | | |
|--|--|
| <input type="checkbox"/> 1. Unusually large number of parties | <input type="checkbox"/> 6. Problems locating or preserving evidence |
| <input type="checkbox"/> 2. Unusually large number of claims or defenses | <input type="checkbox"/> 7. Pending parallel investigations or actions by government |
| <input type="checkbox"/> 3. Factual issues are exceptionally complex | <input type="checkbox"/> 8. Multiple use of experts. |
| <input type="checkbox"/> 4. Greater than normal volume of evidence | <input type="checkbox"/> 9. Need for discovery outside United States boundaries |
| <input type="checkbox"/> 5. Extended discovery period is needed. | <input type="checkbox"/> 10. Existence of highly technical issues and proof. |

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIVED _____

FILED _____

DATE _____

BY _____

CLERK OF COURT

JOF 30 28:1332R

VI. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)**CONTRACT - "0" MONTHS DISCOVERY TRACK**

- ☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- ☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL. VETERANS)
- ☐ 153 RECOVERY OF OVERPAYMENT OF VETERANS BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- ☐ 110 INSURANCE
- ☐ 120 MARINE
- ☐ 130 MILLER ACT
- ☐ 140 NEGOTIABLE INSTRUMENT
- ☐ 151 MEDICARE ACT
- ☐ 160 STOCKHOLDERS' SUITS
- ☐ 160 OTHER CONTRACT
- ☐ 185 CONTRACT PRODUCT LIABILITY
- ☐ 188 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- ☐ 210 LAND CONDEMNATION
- ☐ 220 FORECLOSURE
- ☐ 230 RENT LEASE & EJECTMENT
- ☐ 240 TORTS TO LAND
- ☐ 245 TORT PRODUCT LIABILITY
- ☐ 280 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- ☐ 310 AIRPLANE
- ☐ 315 AIRPLANE PRODUCT LIABILITY
- ☐ 320 ASSAULT, LIBEL & SLANDER
- ☐ 330 FEDERAL EMPLOYERS' LIABILITY
- ☐ 340 MARINE
- ☐ 345 MARINE PRODUCT LIABILITY
- ☐ 350 MOTOR VEHICLE
- ☐ 355 MOTOR VEHICLE PRODUCT LIABILITY
- ☐ 360 OTHER PERSONAL INJURY
- ☐ 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- ☐ 365 PERSONAL INJURY - PRODUCT LIABILITY
- ☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- ☒ 370 OTHER FRAUD
- ☐ 371 TRUTH IN LENDING
- ☐ 380 OTHER PERSONAL PROPERTY DAMAGE
- ☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- ☐ 422 APPEAL 28 USC 158
- ☐ 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- ☐ 441 VOTING
- ☐ 442 EMPLOYMENT
- ☐ 443 HOUSING/ACCOMMODATIONS
- ☐ 444 WELFARE
- ☐ 440 OTHER CIVIL RIGHTS
- ☐ 445 AMERICANS WITH DISABILITIES - Employment
- ☐ 446 AMERICANS WITH DISABILITIES - Other

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- ☐ 510 MOTIONS TO VACATE SENTENCE
- ☐ 530 HABEAS CORPUS
- ☐ 535 HABEAS CORPUS DEATH PENALTY
- ☐ 540 MANDAMUS & OTHER
- ☐ 550 CIVIL RIGHTS (Filed Pro se)
- ☐ 555 PRISON CONDITION(S) (Filed Pro se)

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- ☐ 550 CIVIL RIGHTS (Filed by Counsel)
- ☐ 555 PRISON CONDITION(S) (Filed by Counsel)

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- ☐ 610 AGRICULTURE
- ☐ 620 FOOD & DRUG
- ☐ 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 861
- ☐ 630 LIQUOR LAWS
- ☐ 640 R.R. & TRUCK
- ☐ 650 AIRLINE REGS.
- ☐ 660 OCCUPATIONAL SAFETY/HEALTH
- ☐ 680 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- ☐ 710 FAIR LABOR STANDARDS ACT
- ☐ 720 LABOR/MGMT. RELATIONS
- ☐ 730 LABOR/MGMT. REPORTING & DISCLOSURE ACT
- ☐ 740 RAILWAY LABOR ACT
- ☐ 790 OTHER LABOR LITIGATION
- ☐ 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- ☐ 820 COPYRIGHTS
- ☐ 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- ☐ 830 PATENT

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- ☐ 861 HIA (1365b)
- ☐ 862 BLACK LUNG (823)
- ☐ 863 DIWC (405(g))
- ☐ 863 DIWW (405(g))
- ☐ 864 SSD TITLE XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- ☐ 870 TAXES (U.S. PLAINTIFF OR DEFENDANT)
- ☐ 871 IRS - THIRD PARTY 26 USC 7809

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- ☐ 400 STATE REAPPORTIONMENT
- ☐ 430 BANKS AND BANKING
- ☐ 450 COMMERCE/ICC RATES/ETC.
- ☐ 460 DEPORTATION
- ☐ 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- ☐ 480 CONSUMER CREDIT
- ☐ 490 CABLE/SATELLITE TV
- ☐ 610 SELECTIVE SERVICE
- ☐ 675 CUSTOMER CHALLENGE 12 USC 3410
- ☐ 681 AGRICULTURAL ACTS
- ☐ 682 ECONOMIC STABILIZATION ACT
- ☐ 683 ENVIRONMENTAL MATTERS
- ☐ 684 ENERGY ALLOCATION ACT
- ☐ 685 FREEDOM OF INFORMATION ACT
- ☐ 690 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE
- ☐ 950 CONSTITUTIONALITY OF STATE STATUTES
- ☐ 980 OTHER STATUTORY ACTIONS

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- ☐ 410 ANTI-TRUST
- ☐ 650 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- ☐ ARBITRATION (CONFIRM/VACATE/ORDER/MODIFY)

(Note: Please mark underlying Nature of Suit as well)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ _____

JURY DEMAND ☒ YES ☐ NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE _____

DOCKET NO. _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- ☐ 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- ☐ 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT
- ☐ 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- ☐ 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- ☐ 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- ☐ 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)).

- ☐ 7. EITHER SOME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. THIS CASE ☐ IS ☐ IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

SIGNATURE OF ATTORNEY OF RECORD

DATE

Charles J. Grant / RTS

10/24/07

SDAO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

NORTHERN

District of

GEORGIA

DIANNE MILLER

SUMMONS IN A CIVIL ACTION

V.

HOLTZBRINCK PUBLISHERS, LLC ET. AL

CASE NUMBER:

1:07-CV-2644-JOF

TO: (Name and address of Defendant)

Michelle Valentine
c/o Nancy Flowers
Flowers and Hayward Publicity and Management
4 East 107th Street, Suite 5G
New York, NY 10029

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Charles T. Brant
170 Mitchell Street, SW
Atlanta, GA 30303

an answer to the complaint which is served on you with this summons, within 30 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

JAMES N. HATTEN

CLERK

01 NOV 2007

DATE

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾	DATE
NAME OF SERVER (<i>PRINT</i>)	TITLE

Check one box below to indicate appropriate method of service

- ☐ Served personally upon the defendant. Place where served:
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left:
- ☐ Returned unexecuted:
- ☐ Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL \$0.00
--------	----------	--------------

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____ Date _____ Signature of Server _____

_____ Address of Server _____

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

NORTHERN

District of

GEORGIA

DIANNE MILLER

SUMMONS IN A CIVIL ACTION

V.

HOLTZBRINCK PUBLISHERS, LLC ET. AL

CASE NUMBER:

1:07-cv-2644

JOF

TO: (Name and address of Defendant)

MacMillan Publishers, Inc
c/o St. Martin's Press
Attn: Office of General Counsel
175 5th Avenue
New York, New York 10010-7848

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Charles T. Brant
170 Mitchell Street, SW
Atlanta, GA 30303

an answer to the complaint which is served on you with this summons, within 30 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

JAMES N. HATTEN

CLERK

01 NOV 2007

DATE

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	
NAME OF SERVER (PRINT)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the defendant. Place where served: <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: <input type="checkbox"/> Returned unexecuted: <input type="checkbox"/> Other (specify):		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ Signature of Server _____</p> <p style="text-align: center;">_____ Address of Server</p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

SAO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

NORTHERN

District of

GEORGIA

DIANNE MILLER

SUMMONS IN A CIVIL ACTION

V.

HOLTZBRINCK PUBLISHERS, LLC ET. AL

CASE NUMBER:

1:07-CV-2644-JOF

TO: (Name and address of Defendant)

Holtzbrinck Publishers, LLC
c/o Holtzbrinck Publishing Holdings LP
Attn: Office of General Counsel
175 5th Avenue
New York, New York 10010-7848

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Charles T. Brant
170 Mitchell Street, SW
Atlanta, GA 30303

an answer to the complaint which is served on you with this summons, within 30 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

JAMES N. HATTEN

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<input type="checkbox"/> Other (specify):		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.		
Executed on _____ <div style="display: flex; justify-content: space-between;"> Date Signature of Server </div> <div style="text-align: center; margin-top: 20px;"> _____ Address of Server </div>		

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AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

NORTHERN

District of

GEORGIA

DIANNE MILLER

SUMMONS IN A CIVIL ACTION

V.

HOLTZBRINCK PUBLISHERS, LLC ET. AL

CASE NUMBER:

1:07-CV-2644-JOF

TO: (Name and address of Defendant)

St. Martin's Press
Attn: Office of General Counsel
175 5th Avenue
New York, New York 10010-7848

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Charles T. Brant
170 Mitchell Street, SW
Atlanta, GA 30303

an answer to the complaint which is served on you with this summons, within 30 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

JAMES N. HATTEN

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(By) DEPUTY CLERK

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DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ <div style="display: flex; justify-content: space-around; width: 100%;"> Date Signature of Server </div> <div style="text-align: center; margin-top: 20px;"> _____ Address of Server </div> </p>		

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AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

NORTHERN

District of

GEORGIA

DIANNE MILLER

SUMMONS IN A CIVIL ACTION

V.

HOLTZBRINCK PUBLISHERS, LLC ET. AL

CASE NUMBER:

1:07-CV-2644-JOF

TO: (Name and address of Defendant)

Heather Hunter
c/o Dave Copeland
630 9th Avenue
New York, New York 10036

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Charles T. Brant
170 Mitchell Street, SW
Atlanta, GA 30303

an answer to the complaint which is served on you with this summons, within ~~30~~ 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

JAMES N. HATTEN

CLERK

(By) DEPUTY CLERK

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STATEMENT OF SERVICE FEES		
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<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ Signature of Server _____</p> <p style="text-align: center;">_____ Address of Server</p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

DIANNE MILLER)	
)	
Plaintiff,)	
)	
v.)	
)	
HOLTZBRINCK PUBLISHERS, LLC,	)	Case No. 1:07-cv-2644-JOF
MACMILLAN PUBLISHERS, INC.,)	
SAINT MARTIN'S PRESS,)	
HEATHER HUNTER, and)	
MICHELLE VALENTINE)	
)	
Defendant.)	

DEFENDANTS' CONSENT MOTION FOR EXTENSION OF TIME

Defendants Holtzbrinck Publishers, LLC, MacMillan Publishers, Inc., Saint Martin's Press, Heather Hunter, and Michelle Valentine, by and through counsel, respectfully request an extension of time until December 17, 2007 to move, answer or otherwise respond to the Complaint.

The undersigned counsel have recently been engaged by the Defendants in this action. Although several Defendants have been served, Defendant Valentine has not, and counsel has agreed to accept service on her behalf.

In order to permit all Defendants have a single date on which to move, answer and otherwise respond to the Complaint, and to permit counsel adequate time to prepare, Defendants request an extension of time until December 17, 2007.

The extension will extend the response date of the corporate Defendants by less than two weeks (from December 4 to December 17), and the response date of Defendant Hunter by less than a week (from December 11 to December 17).

In a telephone conference, counsel for Plaintiff has consented to such an extension.

Respectfully submitted,

FOR: DOW LOHNES PLLC

Peter C. Canfield
Georgia Bar No. 107748
Thomas M. Clyde
Georgia Bar No. 170955
Christopher L. Meazell
Georgia Bar No. 500497

Six Concourse Parkway
Atlanta, Georgia 30328-6117
(770) 901-8800

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Defendants' Consent Motion for Extension of Time was served this 28th day of November, 2007, via electronic mail, on the following individual:

Charles Tyrone Brant
Colom and Brant
170 Mitchell Street
Atlanta, GA 30303
cbrant@colomandbrantlaw.com

Thomas M. Clyde

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

DIANNE MILLER

Plaintiff,

V.

HOLTZBRINCK PUBLISHERS, LLC,

MACMILLAN PUBLISHERS, INC.,

SAINT MARTIN'S PRESS,

HEATHER HUNTER, and

MICHELLE VALENTINE

Defendant.

Case No. 1:07-cv-2644-JOF

ORDER

Upon consideration of Defendants' Consent Motion for Extension of Time, it is hereby GRANTED. Defendants answer, motion or other response to the Complaint shall be due on December 17, 2007.

SO ORDERED this _____ day of _____, 2007

J. OWEN FORRESTER
Judge, United States District Court,
Northern District of Georgia

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DIANNE MILLER,)	
)	
Plaintiff,)	
)	
v.)	
)	
HOLTZBRINCK PUBLISHERS, LLC,	)	CIVIL ACTION
MACMILLAN PUBLISHERS, INC.,)	
ST. MARTIN'S PRESS,	)	File No.: 1:07cv2644-JOF
HEATHER HUNTER, and)	
MICHELLE VALENTINE,)	
)	
Defendants.)	
_____)	

MOTION TO DISMISS FOR IMPROPER VENUE

Pursuant to Federal Rule of Civil Procedure 12(b)(3), Defendants move to dismiss this action based upon improper venue.

In accordance with LR 7.1 N.D.Ga., Defendants' motion is supported by the attached memorandum of law.

This 17th day of December, 2007.

Respectfully submitted,

FOR: DOW, LOHNES, PLLC

/s/ Thomas M. Clyde

Peter C. Canfield

Georgia State Bar No. 107748

Thomas M. Clyde

Georgia State Bar No. 170955

Christopher L. Meazell

Georgia State Bar No. 500497

Six Concourse Parkway
Suite 1800
Atlanta, Georgia 30328
(770) 901-8800

Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DIANNE MILLER,)	
)	
Plaintiff,)	
)	
v.)	
)	
HOLTZBRINCK PUBLISHERS, LLC,	)	CIVIL ACTION
MACMILLAN PUBLISHERS, INC.,)	
ST. MARTIN'S PRESS,	)	File No.: 1:07-cv-2644-JOF
HEATHER HUNTER, and)	
MICHELLE VALENTINE,)	
)	
Defendants.)	
_____)	

**MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO DISMISS FOR IMPROPER VENUE**

In accordance with LR 7.1 N.D.Ga., Defendants submit this memorandum of law in support of their motion to dismiss for improper venue.

INTRODUCTION AND FACTUAL BACKGROUND

As is evident from the content of Plaintiff's Complaint, venue for this diversity action does not lie in the Northern District of Georgia. In short, this controversy arises out of the alleged, tortious pre-publication conduct of various Defendants in connection with a 2007 book entitled *Insatiable: The Rise of a Porn Star* (the "Book"). Not a single party to the case is a resident of Georgia, much less this District. See Compl. ¶¶ 2 - 7 (averring Washington, D.C. residency for

Plaintiff and New York residency for each Defendant “at all times relevant hereto”). And the allegedly tortious activities about which Plaintiff complains revolve around the authorship of a book written in New York by residents of New York, and published by companies based in New York. See Declaration of Heather Hunter ¶¶ 2-5, attached hereto as Exhibit 1. Indeed, all of the allegations, evidence and witnesses relevant to this case (with the exception of Plaintiff’s attorney) have no connection whatsoever to the State of Georgia. See Exh. 1 ¶¶ 4-7. Nevertheless, Plaintiff filed suit in this Court and blandly asserts in Paragraph 9 of her Complaint that venue is proper here. It is not.

As a straightforward reading of 28 U.S.C. § 1391 and the claims contained in Plaintiff’s Complaint demonstrate, venue in this diversity action is not proper in this Court or in any other district in this State. Defendants accordingly request that this Court dismiss this action for failure to comport with the requirements of 28 U.S.C. § 1391(a).

ARGUMENT

I. Under the Plain Terms of 28 U.S.C. § 1391, Venue of This Case is Not Proper in This Court

Where federal jurisdiction is founded on diversity, the question of venue is governed by 28 U.S.C. § 1391(a). Home Ins. Co. v. Thomas Indus., Inc., 896 F.2d 1352 , 1355 (11th Cir. 1990). A review of the plain language of the statute demonstrates that venue is not proper in this Court.

Section 1391(a) states:

A civil action wherein jurisdiction is founded only on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant is subject to personal jurisdiction at the time the action is commenced, if there is no district in which the action may otherwise be brought.

A. Subsections (a)(1) and (a)(3) Do Not Support Venue In This District

As the averments of Plaintiff's own Complaint demonstrate, the first and third bases for establishing venue under Section 1391(a) do not support venue in this district.

Subsection (a)(1) permits a suit to be brought in "a judicial district where any defendant resides, if all defendants reside in the same State." For purposes of venue, all the defendants in this case do reside in the same State – New York – but

Plaintiff failed to file her lawsuit in a judicial district in that State. Defendants Hunter and Valentine are longtime residents of New York (See Compl. ¶¶ 6, 7; Exh. 1 ¶¶ 2, 5), and Defendants Holtzbrinck Publishers, LLC, Macmillan Publishers, Inc. and St. Martin's Press are, by operation of law, considered residents there for purposes of venue. See Compl. ¶¶ 3 - 5; 28 U.S.C. § 1391(c) ("For purposes of venue under this chapter, a defendant that is a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced.").¹ Accordingly, subsection (a)(1) affords venue of this case in either the Southern or Eastern Districts of New York,² but it does not provide any basis for venue in Georgia.

Similarly unhelpful to Plaintiff is Subsection (a)(3), which permits venue in "a judicial district in which any defendant is subject to personal jurisdiction at the time the action is commenced, if there is no district in which the action may otherwise be brought." Obviously, for (a)(3) to apply, there must first be a finding that there is "no district in which the action may otherwise be brought." As

¹ St. Martin's Press and Holtzbrinck Publishers, LLC are limited liability companies, which are afforded the same treatment for venue purposes as a corporation such as Macmillan Publishers, Inc. See generally Moore's Federal Practice, § 110.03[5] (3d ed. 1997).

² Four of five Defendants reside within the Southern District of New York (Manhattan and Bronx), with Ms. Hunter residing in the Eastern District of New York (Brooklyn). Defendants collectively suggest that the Southern District would be the more proper Subsection (a)(1) venue for purposes of convenience.

discussed above, in this case, there are at least two districts in which this action may otherwise be brought: the Southern and Eastern Districts of New York.

B. Subsection (a)(2) Does Not Support Venue Here

Equally unavailing is Subsection (a)(2), which authorizes venue in “a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated.” Because this is not an in rem action, venue is only appropriate in Georgia if Plaintiff can show a substantial part of the events or omissions giving rise to her claims occurred here. This is a standard which Plaintiff cannot meet.³

Under Subsection (a) 2: “[s]ubstantiality is intended to preserve the element of fairness so that a defendant is not haled into a remote district having no real relationship to the dispute.” Cottman Transmission Sys., Inc., v. Martino, 36 F.3d 291, 294 (3rd Cir. 1994) (reversing trial court’s finding of proper venue). See also Cameron v. Thornburgh, 983 F.2d 253 (D.C. Cir. 1993) (reversing trial court and

³ The burden of establishing proper venue is on Plaintiff Miller. See Delta Air Lines, Inc. v. W. Conf. of Teamsters Pens. Trust Fund, 722 F. Supp. 725, 727 (N.D. Ga. 1989) (holding “burden of establishing proper venue is on plaintiffs”); 14D Charles Alan Wright, Arthur R. Miller & Edward H. Cooper, Federal Practice and Procedure § 3826 (2007) (“[W]hen an objection has been raised, the burden is on the plaintiff to establish that the district he or she has chosen is a proper venue.... This approach is consistent with the plaintiff’s threshold obligation to show that the case belongs in the particular district court in which suit has been instituted.”).

finding venue improper because all actions allegedly taken by defendant relating to complained-of tort occurred in other jurisdiction); Miller v. Meadowlands Car Imports, Inc., 822 F. Supp. 61, 64 (E.D. Conn. 1993) (venue improper because “a substantial part of the activities did not take place” in the forum).

Courts have articulated the “substantial part of the events” standard of Section 1391(a)(2) as requiring a “substantial nexus” between the forum in which the suit was filed and the allegedly tortious activity of the defendants. For example, in PI, Inc. v. Quality Products, Inc., 907 F.Supp. 752, 757-758 (S.D.N.Y. 1995), the court found venue to be improper because plaintiff, in a breach of contract suit, could not show a substantial nexus between the preparation of the contract, which occurred in Arkansas and Florida, and the forum, New York. See also Emjayco v. Morgan Stanley & Co., Inc., 901 F.Supp. 1397 (C.D. Ill. 1995) (venue improper; court unwilling to impute other defendants’ conduct within Illinois to this defendant, whose only substantial acts occurred in New York).

Plaintiff pays only lip service to this substantiality requirement in Paragraph 9 of her Complaint, stating:

Venue is proper in this Court because the acts delineated below all occurred either partially or in totality in Atlanta, GA. Furthermore the book, subject matter of this litigation, sold by the defendant is distributed on a national level and is sold and circulated in Atlanta, Georgia.

Not only is this naked allegation in the midst of a bare-bones Complaint itself legally insufficient to carry venue, but the entirety of this assertion is belied by the remainder of the Complaint.

First, Plaintiff's assertion that "the acts delineated below all occurred either partially or in totality in Atlanta" is simply false. This is evident from a review of the Complaint as a whole. All of the allegedly tortious activities were purportedly done by New Yorkers in New York. See, e.g., Compl., ¶¶ 10-16 (setting forth purported "facts" all of which involve a manuscript delivered to New York and actions taken in New York); Count I, ¶¶ 17-21 (alleging tortious interference stemming from New York Defendants' actions); Count II, ¶¶ 22-24 (alleging conversion of unpublished material by New York Defendants); Count III, ¶¶ 25-27 (alleging fraud stemming from New York Defendants' actions).

At its core, the wrongdoing alleged in the complaint is a purported conspiracy developed by New Yorkers in New York to "convert" a manuscript located in New York. Simply put, none of the alleged events giving rise to Plaintiff's tort claims occurred here in Georgia. The New York-centricity of this case is further confirmed by co-author Hunter (Exh. 1 ¶¶ 2-8).

While Plaintiff Miller may claim to have acted from Atlanta (or any other locale for that matter), her actions do not form the basis of the allegedly tortious conduct alleged in the Complaint. The very language of Section 1391(a)(2) –

“events or omissions giving rise to the claim” – suggests “a focus on the actions of the defendant, not on those of the plaintiff.” Gaines, Emhof, Metzler & Kriner v. Nisberg, 843 F.Supp. 851, 854 (W.D.N.Y. 1994). In tort cases such as this, “the factors that courts focus on include the place where the allegedly tortious actions occurred and the place where the harms were felt.” 14D Charles Alan Wright, Arthur R. Miller & Edward H. Cooper, Federal Practice and Procedure § 3806.1 at 214-15 (2007). Moreover, the proper emphasis is on the location of the conduct at issue. See Id. at 215-16 (“[m]ost courts have found that the suffering of economic harm within a district is not sufficient without more to warrant transactional venue in that district...because otherwise venue would almost always be proper at the place of plaintiff’s residence, an option Congress explicitly removed with the 1990 amendments to the diversity portion of the statute”). Not surprisingly then, courts have repeatedly rejected efforts to establish venue based on Plaintiffs’ actions or injuries, as opposed to the events giving rise to the claim. See generally Id. at n.17 (collecting cases).

In this case Ms. Hunter had no interaction with Ms. Miller related to the Book in Georgia (Exh. 1 ¶¶ 6-8), and all of the allegedly tortious conduct occurred in New York, thus rendering Georgia an inappropriate venue for this tort action. See, e.g., I.M.D. USA, Inc. v. Shalit, 92 F. Supp. 2d 315 (E.D.N.Y. 2000) (Suit alleging breach of contract to sell diamonds on consignment, and conversion, was

properly venued in South Carolina, where defendant lived and diamonds were allegedly converted, rather than Eastern District of New York, where parties happened to meet socially prior to entering into agreement); Jones v. Trump, 919 F. Supp. 583, 587-89 (D. Conn. 1996) (Federal district court in Connecticut was improper venue for claims alleging trespass, destruction of private property, theft, violation of privacy, and conversion arising out of actions taken by defendants at Connecticut plaintiff's New York office; actions did not substantially arise from events or omissions occurring in State of Connecticut).

Apparently recognizing the deficiency of her general venue pleading, Plaintiff tries to bolster her case by citing the sale and distribution of the Book nationwide and within Atlanta. The acts claimed in Plaintiff's Complaint, however, have nothing whatsoever to do with the sale and publication of the Book. Rather, they plainly surround the alleged pre-publication conduct of Defendants in connection with a purported manuscript that pre-existed the work as eventually published. See, e.g., Compl., ¶¶ 10-16 ("facts" occurring prior to the actual publication of the Book); Count I, ¶¶ 17-21 (alleging tortious interference stemming from pre-publication actions); Count II, ¶¶ 22-24 (alleging conversion of unpublished material); Count III, ¶¶ 25-27 (alleging fraud stemming from pre-publication actions). The actual publication of the book itself forms no part of Plaintiff's allegations. As such, its availability or sale *vel non* in the State of

Georgia is irrelevant for purposes of venue – undercutting Plaintiff’s secondary assertion for an adequate venue foundation.

This leaves the question of why Plaintiff chose to file this case in Atlanta - an obviously improper venue with no connection to either the parties or events at issue? The answer to this is simple: the case was apparently brought here for the convenience of Plaintiff’s Atlanta-based counsel – an inappropriate basis for venue. See Ramsey v. Fox News Network, 323 F. Supp. 2d 1352, 1356 (N.D. Ga. 2004) (convenience of counsel irrelevant to issue of determining venue (citing Prather v. Raymond Constr. Co., 570 F. Supp. 278, 284 (N.D. Ga.1983))).

Obviously, the location of the alleged “events or omissions giving rise to the claim” is not in Georgia. The language of Section 1391(a)(2) and the case law interpreting it compel a conclusion that venue is not proper in this Court.

II. Under 28 U.S.C. § 1406(a), Plaintiffs’ Complaint Should Be Dismissed for Improper Venue

Because venue has been laid in the wrong district, the case should be dismissed. Under 28 U.S.C. § 1406(a), “the district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.”

Plaintiff has not and cannot show that the interests of justice are served by transfer in lieu of dismissal. Plaintiff brought this case in a forum in which venue

is improper as to all defendants, albeit convenient for Plaintiff's counsel. Counsel for Defendants informed Plaintiff's counsel⁴ of this deficiency, and asked that the Complaint be withdrawn prior to the expenditure of time and resources on this Motion. Plaintiff's counsel refused, maintaining Plaintiff's effort to force the litigation to occur in this distant and inconvenient forum. Plaintiffs' decision to file in a district where Plaintiff had to know venue was improper should not be rewarded by a transfer that simply encourages this and other Plaintiffs to disregard the basic statutes dictating where suits can properly be brought and encourages the filing of unnecessary pleadings that increase the time and expense of the case to defendants and the Court. See, e.g., Hapaniewski v. City of Chicago Heights, 883 F.2d 576, 579 (7th Cir. 1989).⁵

Moreover, even if the Court were to find that venue may be proper here, Defendants submit that the Court should exercise its discretion pursuant to Section 1404(a) and, in the interests of justice, transfer the case to the Southern District of

⁴ When Defendants' counsel attempted to speak to counsel of record for Plaintiff, Defendants' counsel was referred instead to two attorneys at the same firm located in Columbus, Mississippi. The Columbus counsel -- Wilbur Colom and Edtrik Baker -- have indicated they will be primarily handling the case and refused to withdraw the action.

⁵ Earlier this year, Plaintiff's counsel of record similarly filed a complaint in this district without a proper basis to establish jurisdiction and venue. See Genesis Press, Inc. v. Parker Publishing, Case No. 06-cv-2350-ODE (July 5, 2007 Order granting Rule 12(b) motion [Doc. No. 30]).

New York for the convenience of the parties and witnesses – all of whom, but for the Washington, D.C.- based Plaintiff, are located in New York.

CONCLUSION

For all of these reasons, the Court should dismiss Plaintiff's Complaint for improper venue.

This 17th day of December, 2007.

Respectfully submitted,

FOR: DOW, LOHNES, PLLC

/s/ Thomas M. Clyde

Peter C. Canfield

Georgia State Bar No. 107748

Thomas M. Clyde

Georgia State Bar No. 170955

Christopher L. Meazell

Georgia State Bar No. 500497

Six Concourse Parkway
Suite 1800
Atlanta, Georgia 30328
(770) 901-8800

Attorneys for Defendants

CERTIFICATE OF COMPLIANCE WITH TYPE REQUIREMENTS

I hereby certify that the foregoing MOTION TO DISMISS OF
DEFENDANTS FOR IMPROPER VENUE, and MEMORANDUM OF LAW IN
SUPPORT have been prepared in a font and point selection approved by the Court
in Local Rule 5.1B.

DATED this 17th day of December, 2007.

/s/ Christopher L. Meazell
Christopher L. Meazell
Ga. Bar No. 500497

CERTIFICATE OF SERVICE

This is to certify that I have this day filed the foregoing MOTION TO DISMISS FOR IMPROPER VENUE with the Court using the CM/ECF system, which will send electronic notice of same to the below-listed counsel of record:

Charles Tyrone Brant
Office of Charles T. Brant
170 Mitchell Street
Atlanta, GA 30303
404-522-5900
Email: cbrant@colomandbrantlaw.com

DATED this the 17th day of December, 2007.

/s/ Christopher L. Meazell
Christopher L. Meazell
Ga. Bar No. 500497

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DIANNE MILLER,

Plaintiff,

v.

HOLTZBRINCK PUBLISHERS, LLC,
MACMILLAN PUBLISHERS, INC.,
ST. MARTIN'S PRESS,
HEATHER HUNTER, and
MICHELLE VALENTINE,

Defendants.

CIVIL ACTION

File No.: 1:07-cv-2644-JOF

DECLARATION OF HEATHER HUNTER

STATE OF NEW YORK
COUNTY OF KINGS

1. I am named as a defendant in the above action and make this declaration in support of the Defendants' motion to dismiss for improper venue. I have personal knowledge of the facts set forth herein.
2. I am a resident of Brooklyn, New York, and have lived here since late-2002.
3. I am the co-author of the novel, "Insatiable: The Rise of a Porn Star." It is the novel referenced in the Complaint.

4. All of the writing that I did in connection with preparing the novel was done from my home office in New York.

5. In addition, my discussions with my co-author Michelle Valentine, who is located in the Bronx, occurred in New York. My discussions with my agent, who is located in Manhattan, took place in New York. My discussions with my publisher St. Martin's Press were with employees located in New York City. To the best of my knowledge, all of my communications with any other people relating to the novel occurred while I was located in New York.

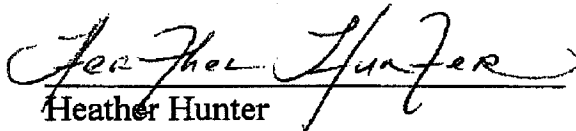
6. My communications with Diane Miller related to an early version of the novel, and all occurred via telephone or e-mail while I was located in New York.

7. On one occasion in early 2006, as part of a promotional tour for my music CD "Double H: The Unexpected," I briefly met Dianne Miller in person during a general meet-and-greet session at an Atlanta night club. Ms. Miller was one of a number of well-wishers and the meeting was only social.

8. I never visited Georgia in connection with writing the novel.

9. I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed this __ day of December, 2007 at Brooklyn, New York.


Heather Hunter

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DIANNE MILLER,)	
)	
Plaintiff,)	
)	
v.)	
)	
HOLTZBRINCK PUBLISHERS, LLC,	)	CIVIL ACTION
MACMILLAN PUBLISHERS, INC.,)	
ST. MARTIN'S PRESS,	)	File No.: 1:07cv2644-JOF
HEATHER HUNTER, and)	
MICHELLE VALENTINE,)	
)	
Defendants.)	
_____)	

NOTICE OF APPEARANCE

Notice is hereby given that Christopher L. Meazell of the law firm of Dow Lohnes PLLC hereby enters an appearance on behalf of Defendants.

This 19th day of December, 2007.

Respectfully submitted,

/s/ Christopher L. Meazell
Christopher L. Meazell
Georgia State Bar No. 500497

DOW LOHNES PLLC
Six Concourse Parkway
Suite 1800
Atlanta, Georgia 30328
(770) 901-8800

CERTIFICATE OF SERVICE

This is to certify that I have this day filed the foregoing NOTICE OF APPEARANCE with the Court using the CM/ECF system, which will send electronic notice of same to the below-listed counsel of record:

Charles Tyrone Brant
Office of Charles T. Brant
170 Mitchell Street
Atlanta, GA 30303
404-522-5900
Email: cbrant@colomandbrantlaw.com

DATED this the 19th day of December, 2007.

/s/ Christopher L. Meazell
Christopher L. Meazell
Ga. Bar No. 500497

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

DIANNE MILLER)

Plaintiff,)

v.)

HOLTZBRINCK PUBLISHERS, LLC,)

MACMILLAN PUBLISHERS, INC.,)

SAINT MARTIN'S PRESS,)

HEATHER HUNTER, and)

MICHELLE VALENTINE)

Defendant.)

Case No. 1:07-cv-2644-JOF

PLAINTIFF'S MOTION FOR EXTENSION OF TIME

Plaintiff Dianne Miller, by and through counsel, respectfully request an extension of time until January 22, 2008 to answer or otherwise respond to the Motion to Dismiss for Improper Venue.

The undersigned counsel has contacted counsel for the Defendants in an effort to resolve the pending motion. Defense counsel has stated that he will contact his clients in order to ascertain whether an agreement can be made. He informed Plaintiff's counsel that a response to such request would be made during the week of January 7 through January 11, 2008.

In order to permit Defense counsel ample opportunity to communicate with his clients and to allow Plaintiff's attorney enough time to draft a proper response, the Plaintiff request an extension of time until January 22, 2008.

This 4th day of January, 2008.

Respectfully submitted,

/s/ Charles T. Brant
Charles T. Brant, Esq.
Attorney for Plaintiff

GA Bar #078070
170 Mitchell St. S.W.
Atlanta, GA 30303
Telephone: 404-522-5900
Facsimile: 404-526-8855

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

DIANNE MILLER

Plaintiff,

V.

HOLTZBRINCK PUBLISHERS, LLC,
MACMILLAN PUBLISHERS, INC.,
SAINT MARTIN'S PRESS,
HEATHER HUNTER, and
MICHELLE VALENTINE

Defendant.

Case No. 1:07-cv-2644-JOF

ORDER

Upon consideration of Plaintiff's Motion for Extension of Time, it is hereby GRANTED. Plaintiff's response motion or other response to the Motion to Dismiss for Improper Venue is due on January 22, 2008.

SO ORDERED this _____ day of _____, 2008

J. OWEN FORRESTER
Judge, United States District Court,
Northern District of Georgia

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing **MOTION FOR EXTENSION OF TIME** upon the following counsel for the parties by e-filing and U.S. first class mail to :

Thomas M. Clyde, Esq.
DOW, LOHNES, PLLC
Six Concourse Parkway
Suite 1800
Atlanta, Georgia 30328

Peter C. Canfield, Esq.
DOW, LOHNES, PLLC
Six Concourse Parkway
Suite 1800
Atlanta, Georgia 30328

Christopher L. Meazell, Esq.
DOW, LOHNES, PLLC
Six Concourse Parkway
Suite 1800
Atlanta, Georgia 30328

This 4th day of January, 2008.

COLOM AND BRANT

/s/ Charles T. Brant
Charles T. Brant
Georgia Bar No. 078070
Attorney for Defendant

170 Mitchell Street
Atlanta, GA 30303
(404) 522-5900
(404) 526-8855 (facsimile)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

DIANNE MILLER)

Plaintiff,)

v.)

HOLTZBRINCK PUBLISHERS, LLC,)

MACMILLAN PUBLISHERS, INC.,)

SAINT MARTIN'S PRESS,)

HEATHER HUNTER, and)

MICHELLE VALENTINE)

Defendant.)

Case No. 1:07-cv-2644-JOF

ORDER

Upon consideration of Plaintiff's Motion for Extension of Time, it is hereby GRANTED. Plaintiff's response motion or other response to the Motion to Dismiss for Improper Venue is due on January 22, 2008.

SO ORDERED this _____ day of _____, 2008

J. OWEN FORRESTER
Judge, United States District Court,
Northern District of Georgia

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

DIANNE MILLER)

Plaintiff,)

v.)

HOLTZBRINCK PUBLISHERS, LLC,)

MACMILLAN PUBLISHERS, INC.,)

SAINT MARTIN'S PRESS,)

HEATHER HUNTER, and)

MICHELLE VALENTINE)

Defendant.)

Case No. 1:07-cv-2644-JOF

ORDER

Upon consideration of Plaintiff's Motion for Extension of Time, it is hereby GRANTED. Plaintiff's response motion or other response to the Motion to Dismiss for Improper Venue is due on January 22, 2008.

SO ORDERED this _____ day of _____, 2008

J. OWEN FORRESTER
Judge, United States District Court,
Northern District of Georgia

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DIANNE MILLER,)	
)	
Plaintiff,)	
)	
v.)	
)	
HOLTZBRINCK PUBLISHERS, LLC,	)	CIVIL ACTION
MACMILLAN PUBLISHERS, INC.,)	
ST. MARTIN'S PRESS,	)	File No.: 1:07-cv-2644-JOF
HEATHER HUNTER, and)	
MICHELLE VALENTINE,)	
)	
Defendants.)	
_____)	

**RESPONSE IN SUPPORT
OF PLAINTIFF'S MOTION FOR EXTENSION OF TIME**

Defendants respectfully submit this Response to Plaintiff's Motion for Extension of Time to Respond [Doc. 7], filed January 5, 2008. Defendants do not oppose Plaintiff's request for an extension through January 22, 2008 to respond to Defendants' Motion to Dismiss for Improper Venue [Doc. 4] and consent to the entry of Plaintiff's Proposed Order.

This 8th day of January, 2008.

Respectfully submitted,

FOR: DOW, LOHNES, PLLC

/s/ Christopher L. Meazell

Peter C. Canfield

Georgia State Bar No. 107748

Thomas M. Clyde

Georgia State Bar No. 170955

Christopher L. Meazell

Georgia State Bar No. 500497

Six Concourse Parkway
Suite 1800
Atlanta, Georgia 30328
(770) 901-8800

Attorneys for Defendants

CERTIFICATE OF COMPLIANCE WITH TYPE REQUIREMENTS

I hereby certify that the foregoing RESPONSE IN SUPPORT OF PLAINTIFF'S MOTION FOR EXTENSION OF TIME has been prepared in a font and point selection approved by the Court in Local Rule 5.1B.

DATED this 8th day of January, 2008.

/s/ Christopher L. Mezell
Christopher L. Mezell
Ga. Bar No. 500497

CERTIFICATE OF SERVICE

This is to certify that I have this day filed the foregoing RESPONSE IN SUPPORT OF PLAINTIFF'S MOTION FOR EXTENSION OF TIME with the Court using the CM/ECF system, which will send electronic notice of same to the below-listed counsel of record:

Charles Tyrone Brant
Office of Charles T. Brant
170 Mitchell Street
Atlanta, GA 30303
404-522-5900
Email: cbrant@colomandbrantlaw.com

DATED this the 8th day of January, 2008.

/s/ Christopher L. Meazell
Christopher L. Meazell
Ga. Bar No. 500497

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DIANNE MILLER,)	
Plaintiff,)	
)	
)	
v.	)	CIVIL ACTION
)	
	)	File No.:1:07cv2644-JOF
)	
HOLTZBRINK PUBLISHERS, LLC,)	
MACMILLAN PUBLISHER, INC.,)	
ST. MARTIN'S PRESS)	
HEATHER HUNTER, and)	
MICHELLE VALENTINE)	
Respondent,)	
)	

ORDER GRANTING TRANSFER OF VENUE

THIS MATTER having come before this court, and upon consent of Dianne Miller, Plaintiff and Holtzbrinck Publishers, LLC, MacMillan Publishers, Inc., St. Martin's Press, Heather Hunter, and Michelle Valentine, Defendants, the court finds that based upon the acknowledged consent the parties that Civil Action File no. 1:07 cv 2644-JOF shall be transferred to the Southern District of New York.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the individual claims of Dianne Miller asserted in the United State

District Court for the Northern District of Georgia Atlanta Division, Civil Action No. 1:07cv2644-JOF be transferred to the United States District Court for the Southern District of New York. It is further ordered that the clerk of this court duplicate the entire original file on this matter and deliver it to the Circuit Clerk of United States District Court for the Southern District of New York. It also is ordered that any additional costs or fees required for filing this action be paid by Plaintiff herein.

Defendants' answer or other response to the Complaint shall be due 30 days after this action is docketed in the United States District Court for the Southern District of New York.

SO ORDERED, this the ____ day of January 2008.

J. OWEN FORRESTER
Judge, United States District Court,
Northern District of Georgia

Prepared by:

Charles T. Brant, Esq.
170 Mitchell Street
Atlanta, Georgia 30303
(404) 522-5900
(404) 526-8855 facsimile

Attorney for Plaintiff:

COLOM & BRANT
Attorneys at Law

/s/ Charles T. Brant
Charles T. Brant
Georgia Bar No. 078070

170 Mitchell Street
Atlanta, Georgia 30303
Phone: (404) 522-5900
Fax: (404) 526-8855

Attorney for Defendants

/s/ Thomas M. Clyde
Thomas M. Clyde
GA State Bar No. 170955

Dow, Lohnes, PLLC
Six Concourse Parkway
Suite 1800
Atlanta, Georgia 30328
(770) 901-8800

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing **ORDER GRANTING TRANSFER OF VENUE** upon the following counsel for the parties by e-filing and U.S. first class mail to :

Thomas M. Clyde, Esq.
DOW, LOHNES, PLLC
Six Concourse Parkway
Suite 1800
Atlanta, Georgia 30328

This 22ND day of January, 2008.

/s/ Charles T. Brant
Charles T. Brant
GA Bar No.: 078070

170 Mitchell Street
Atlanta, Georgia 30303
(404) 522-5900
(404) 526-8855 (facsimile)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DIANNE MILLER,
Plaintiff,

v.

HOLTZBRINK PUBLISHERS, LLC,
MACMILLAN PUBLISHER, INC.,
ST. MARTIN'S PRESS
HEATHER HUNTER, and
MICHELLE VALENTINE
Respondent,

CIVIL ACTION

File No.:1:07cv2644-JOF

ORDER GRANTING TRANSFER OF VENUE

THIS MATTER having come before this court, and upon consent of Dianne Miller, Plaintiff and Holtzbrinck Publishers, LLC, MacMillan Publishers, Inc., St. Martin's Press, Heather Hunter, and Michelle Valentine, Defendants, the court finds that based upon the acknowledged consent the parties that Civil Action File no. 1:07 cv 2644-JOF shall be transferred to the Southern District of New York.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED
that the individual claims of Dianne Miller asserted in the United State

District Court for the Northern District of Georgia Atlanta Division, Civil Action No. 1:07cv2644-JOF be transferred to the United States District Court for the Southern District of New York. It is further ordered that the clerk of this court duplicate the entire original file on this matter and deliver it to the Circuit Clerk of United States District Court for the Southern District of New York. It also is ordered that any additional costs or fees required for filing this action be paid by Plaintiff herein.

Defendants' answer or other response to the Complaint shall be due 30 days after this action is docketed in the United States District Court for the Southern District of New York.

MARCH

SO ORDERED, this the 3rd day of ~~January~~ 2008.

J. OWEN FORRESTER
Judge, United States District Court,
Northern District of Georgia

Prepared by:

Charles T. Brant, Esq.
170 Mitchell Street
Atlanta, Georgia 30303
(404) 522-5900
(404) 526-8855 facsimile

Attorney for Plaintiff:

COLOM & BRANT
Attorneys at Law

/s/ Charles T. Brant
Charles T. Brant
Georgia Bar No. 078070

170 Mitchell Street
Atlanta, Georgia 30303
Phone: (404) 522-5900
Fax: (404) 526-8855

Attorney for Defendants

/s/ Thomas M. Clyde
Thomas M. Clyde
GA State Bar No. 170955

Dow, Lohnes, PLLC
Six Concourse Parkway
Suite 1800
Atlanta, Georgia 30328
(770) 901-8800

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing **ORDER GRANTING TRANSFER OF VENUE** upon the following counsel for the parties by e-filing and U.S. first class mail to :

Thomas M. Clyde, Esq.
DOW, LOHNES, PLLC
Six Concourse Parkway
Suite 1800
Atlanta, Georgia 30328

This 22ND day of January, 2008.

/s/ Charles T. Brant
Charles T. Brant
GA Bar No.: 078070

170 Mitchell Street
Atlanta, Georgia 30303
(404) 522-5900
(404) 526-8855 (facsimile)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
2211 UNITED STATES COURTHOUSE
75 SPRING STREET, SW
ATLANTA, GEORGIA 30303-3361

JAMES N. HATTEN
CLERK OF COURT

CIVIL SECTION
404-215-1655

March 3, 2008

Office of the Clerk
USDC Southern District of New York
120 Daniel Patrick Moynihan, 500 Pearl Street
New York, NY 10007-1312

Re: *Dianne Miller v. Holtzbrink Publishers, LLS, et al,*
Civil Action File No. 1:07-cv-2644-JOF

Dear Clerk:

Pursuant to an order of the Court dated March 3, 2008, we are transferring the above entitled case to your district.

Enclosed you will find the entire original file, a certified copy of both the order transferring the case and a copy of our docket sheet.

Please acknowledge receipt of this file upon the copy of this letter.

Sincerely,

James N. Hatten
Clerk of Court

By: s/ Harry F. Martin
Deputy Clerk

Enclosures
cc: Counsel of Record

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

2211 UNITED STATES COURTHOUSE
75 SPRING STREET, SW
ATLANTA, GEORGIA 30303-3361

JAMES N. HATTEN
CLERK OF COURT

CIVIL SECTION
404-215-1655

April 8, 2008

Office of the Clerk
USDC Southern District of New York
120 Daniel Patrick Moynihan, 500 Pearl Street
New York, NY 10007-1312

Re: *Dianne Miller v. Holtzbrink Publishers, LLC, et al,*
Civil Action File No. 1:07-cv-2644-JOF

Dear Clerk:

Pursuant to an order of the Court dated March 3, 2008, we are transferring the above entitled case to your district.

Enclosed you will find the entire original file, a certified copy of both the order transferring the case and a copy of our docket sheet.

Please acknowledge receipt of this file upon the copy of this letter.

Sincerely,

James N. Hatten
Clerk of Court

By: s/ Harry F. Martin
Deputy Clerk

Enclosures
cc: Counsel of Record